



ORIGINAL

July 28, 1999

Magalie Roman Salas
 Secretary
 Federal Communications Commission
 445 Twelfth Street, S.W.
 Washington, D.C. 20554

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JUL 29 1999

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

Re: **Notice of Ex Parte Presentation** in CC
 Docket No. 98-147/Deployment of Wireline
 Services Offering Advanced Telecommunications
 Capability

Dear Secretary Salas,

On July 28, 1999, Jonathan Askin, representing the Association for Local Telecommunications Services, Glenn Manishin, representing Rhythms NetConnections, Tom Koutsky, representing Covad Communications, Steve Gorosh, Michael Olsen, and Ruth Milkman, representing NorthPoint Communications, Rodney Joyce, representing Network Access Solutions, and Melanie Haratunian and Chip Ach, representing HarvardNet, met with Carol Matthey, Margaret Egler, Staci Pies, Vin Paladini, and Michael Jacobs of the Policy Division of the Common Carrier Bureau, Stagg Newman and Doug Sicker of the Office of Engineering and Technology, and Jason Oxman of the Office of Plans and Policy to discuss the issues set forth in the Further Notice of Proposed Rulemaking in the above-referenced docket. The attached documents reflect the substance of the issues discussed at the meeting.

Should you have any questions about this matter, please call me at 969-2597. An original and one copy of this letter is being submitted to you for inclusion in the public record.

Sincerely,

Jonathan Askin

cc: Carol Matthey
 Margaret Egler
 Staci Pies
 Vin Paladini
 Michael Jacobs
 Stagg Newman
 Doug Sicker
 Jason Oxman

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Deployment of Wireline Services Offering Advanced Telecommunications Capability

(Advanced Services Further Notice)

CC Docket No. 98-147

July 28, 1999 *Ex Parte* Presentation

Association for Local Telecommunications Services

Rhythms NetConnections Inc.

NorthPoint Communications

Covad Communications Company

HarvardNet

Line Sharing

- I. LINE SHARING IS A LOOP CAPABILITY THAT MUST BE MADE AVAILABLE BY ILECs ON AN UNBUNDLED BASIS UNDER SECTION 251(c) OF THE ACT
 - A. Line Sharing is Necessary to Permit CLEC DSL Providers to Compete in the Residential Advanced Services Market
 1. ILECs use line sharing today for their residential ADSL services
 2. By providing DSL over the same loop used for voice services, line sharing allows end users who do not need, cannot afford or do not have access to (i.e., insufficient copper) another dedicated line to enjoy high-speed Internet access
 3. If ILECs alone are permitted to provide DSL via line sharing, CLECs will be forced to buy a full loop UNE and will be priced out of the residential DSL market — there will be no hope of competition for lower-volume and higher-cost markets. (Cannot meet ILEC price points if you must pay for a stand-alone loop in addition to all DSL investment required to enter market.)
 4. Absent FCC mandate for line sharing, ILECs will have *carte blanche* to extend their voice monopoly into residential high-speed data services

Line Sharing *(continued)*

B. Line Sharing Squarely Meets the Section 251(c) Standard for Unbundling

1. Technical feasibility is not a real issue. Since line sharing is being done today by LECs using ADSL, and is incorporated into the ANSI T1.413-1998 standard for ADSL, it is plainly feasible. As U S WEST commented in 1998, the only issues are OSS-implementation related, i.e., “assignment, maintenance, billing and repair systems.” These are all workable on an inter-carrier or industry forum basis.
 - (a) To avoid problems with service quality arising from potentially incompatible equipment and DSL technologies, line sharing should be required whenever the applicable standard includes capability for shared provision of voice/data on single loop. Today that’s ADSL only.
2. Section 153(45) includes “capabilities . . . provided by means of” an element in the definition of UNE. Line sharing is a capability of the loop.
3. Denial of line sharing “impairs” CLECs’ ability to offer DSL services.
4. Line sharing from ILEC is “necessary” because DSLAM/splitter technology is vendor-provided and, in any event, CLEC does not gain access to proprietary information just by having its data split off from POTS voice traffic.

Line Sharing *(continued)*

5. Alternative approach for line sharing is interstate special access service. Since FCC has classified ADSL as interstate service, it could rule that ILECs must provide line sharing to data CLECs under non-discrimination standards of Section 201(a)/202(b) where they do so for their own services.
 - (a) Pricing issues under this approach could be resolved by FCC, rather than states as matter of interconnection agreement arbitrations.
 - (b) FCC has settled authority to compel provision of access services by dominant carriers (e.g., 800 database, etc.)

Line Sharing *(continued)*

C. Line Sharing Does Not Permit ILECs to Restrict CLECs' "Exclusive Use" of Loop UNEs

1. FCC addressed CLECs' right to use an unbundled loop in whatever fashion they want in *Local Competition Order*. That conclusion is unaffected by *Iowa Utilities* and should not be reconsidered.
2. CLECs must retain the right to get a whole loop UNE; ILECs cannot force CLECs to take just the "voice frequencies" and then put ILECs' own (or someone else's) DSL over that same loop.
3. Commission should reaffirm Sections 51.307(d)(CLEC can have access to any one UNE "separate from access to the facility or functionality of other network elements") and 51.309(c)(CLEC "is entitled to exclusive use" of every UNE, including loop).
4. Line sharing obligations do not apply to voice CLECs, since (a) voice CLECs are not subject to unbundling under Section 251(c), and (b) CLECs are nondominant carriers without market power. Line sharing by CLECs should remain a matter for business negotiations and voluntary partnerships with DSL providers. CLECs buying loop UNEs retain complete freedom to use it for voice, data or any combination their customers desire.

Line Sharing *(continued)*

D. The Commission Should Address Pricing Issues Related to Line Sharing:

1. Need nondiscriminatory loop cost. Loop cost recovery obligations must be the same for both ILEC and CLEC line sharing DSL services. Nondiscriminatory pricing requires, at least, imputation by ILECs of same loop costs charged CLECs into their interstate DSL rates.
2. Commission should not hold up line sharing for decision on these pricing issues. Instead, it should examine loop allocation in context of ILEC interstate DSL tariffs. Any loop cost assignment there should be the price ILECs are required to charge CLECs for line sharing.
3. Commission should mandate line sharing on national basis even though, like other UNEs, specific pricing determinations are reserved for state PUCs

Spectrum Compatibility

- I. Maintain the “significantly degrade” standard for spectrum compatibility
- II. Establish neutral body (similar to Federal advisory bodies like NANC, NRIC) to set, implement, and enforce spectrum policies (similar to NANC, NRIC) in order to maximize deployment and innovation and minimize actual interference with other services
- III. Actively oversee the industry standards process
- IV. Actively enforce Advanced Services Order